

IN THE MATTER OF A REGULATORY COMMISSION

BETWEEN

THE FOOTBALL ASSOCIATION

and

MS LEETA RUTHERFORD

WRITTEN REASONS OF THE REGULATORY COMMISSION

Regulatory Commission: Sally Davenport (Chair) – Independent Legal Panel Member

Simon Hollyhead – Independent Football Panel Member

Alison Royston – Independent Football Panel Member

Secretary: Michael O'Connor, Judicial Services Assistant Manager

Date: 11 October 2023

Venue: Held remotely via Microsoft Teams

Attending: Leeta Rutherford – Participant Charged
Craig Harris – Furnival Chambers, Representing LR
Deidre McCarthy – Centrefield LLP, Representing LR
Andrew Cullen – CEO, Portsmouth FC, Observer
Eric Coleborn – Director, Portsmouth Women FC, Observer
Andrew Phillips - Regulatory Advocate, Representing The FA
Abbey Joice - FA witness

Emma Kelly - FA witness
Cristiana Hattersley - FA witness
Phoebe Cross – FA witness
Isabella Borg – London FA, Observer

Introduction

1. These are the written reasons of the Regulatory Commission that considered the charge against Leeta Rutherford “LR”.
2. LR is a player with Portsmouth Women FC (“Portsmouth”). At the time of the matters giving rise to the charge, she was a player with Southampton FC Women (“Southampton”).
3. LR was charged by The FA with misconduct in respect of an incident occurring in an FA Women’s Championship fixture against Sunderland AFC Ladies (“Sunderland”), played on 12 February 2023 (“the Match”). LR is said to have used the words “*Downs Syndrome*” towards a Sunderland player, Abbey Joice (“the Incident”).

The Investigation

4. On 12 February 2023, The FA received an Extraordinary Incident Report Form from the Match Referee, Cristiana Hattersley, which stated as follows:

“During the game on Sunday 12th February between Sunderland and Southampton, it was brought to my attention in the 43rd minute that Southampton’s number 21, Leeta Rutherford had made a comment to Sunderlands number 17, Abbey Joyce. I informed both technical areas of the incident and told them we would put a report together after the game.

After the game I spoke to Abbey Joyce, alongside club representative Alex Clark and fourth official Phoebe Cross.

Abbey Joyce said the following was said by Leeta Rutherford a few minutes before it was brought to my attention in the 43rd minute “it’s not my fault you look like a little Down syndrome” to which Abbey replied “that’s disgusting” and then Leeta came back with “it’s not my fault you look like a Down syndrome”.

Separately I spoke to Leeta Rutherford, alongside club representative Marie-Anne Spacey-Cale and fourth official Phoebe Cross.

Leeta said the following was said by herself “stand up you’re on your knees” to which Abbey replied “you’ve called me a downy, that’s disgusting”

Phoebe Cross was present during the statements taken post match and will also be submitting a report.”

5. The same day, the Fourth Official, Phoebe Cross, submitted an Extraordinary Incident Report Form in almost identical terms.
6. The FA commenced an investigation. Anna Benjamin (“AB”), Integrity Investigator for The FA, interviewed the Referee and the Fourth Official.
7. The FA obtained match footage from The FA Player, which was then trimmed down. The FA also took a clip from the tactical angle. Sunderland also provided footage from a wide-angle camera. The three clips were provided to the Commission, together with a split-screen edit showing the wide angle footage and close footage alongside each other. The alleged discriminatory words cannot be heard on any of the clips.
8. On 8 March 2023, AB interviewed LR. After the interview Southampton provided the handwritten notes that LR had made in preparation for it, together with a written statement from the Southampton Manager, Marianne Spacey-Cale (“MSC”).
9. AB also took statements from Abbey Joice (“AJ”), from the Sunderland Captain, Emma Kelly (“EK”), and from another Sunderland player, Danielle Brown (“DB”). Neither EK nor DB heard the alleged discriminatory words, but were told about what had been said by AJ.

The Charge

10. By letter dated 31 May 2023, The FA charged LR with a breach of FA Rule E3. It was alleged that her language towards a Sunderland player was abusive and/or indecent and/or insulting contrary to Rule E3.1. It was further alleged that this

breach of Rule E3.1 was an aggravated breach, as defined in Rule E3.2, because it included a reference (express or implied) to disability.

11. LR was sent the following documents together with the charge letter:

- ANB/1 – Video Clip of the Incident
- ANB/2 - Video Clip of the Incident (Tactical Trim block and words exchanged)
- ANB/3 - Video Clip of the Incident (Match Incident Sound on Copy Wide Angle)
- ANB/4 – Extraordinary Incident Report Form of Match Referee
- ANB/5 - Extraordinary Incident Report Form of Fourth Official
- ANB/6 – Handwritten Notes of Fourth Official
- ANB/7 – Witness Statement of MSC
- ANB/8 – LR’s Handwritten Notes
- ANB/9 - Video Clip of the Incident (Split Screen)
- ANB/10 – FA Interview with LR
- Witness Statement of AB
- Witness Statement of DB
- Witness Statement of AJ
- Witness Statement of the Referee
- Witness Statement of EK
- Witness Statement of Fourth Official

The Response

12. On 7 June 2023, LR submitted a Disciplinary Proceedings Reply Form to The FA, denying the charge and requesting a personal hearing. She subsequently submitted a statement dated 28 June 2023.

The Hearing

13. The FA arranged an in-person hearing at Wembley which was due to take place on 6 September 2023. Shortly before the hearing, The FA was contacted by Centrefield LLP on behalf of Portsmouth to say that the firm and Portsmouth had very recently taken over the case from Southampton. It was agreed to postpone the hearing to allow discussions to take place between LR and her representatives so that she was properly supported. The hearing was subsequently rescheduled for 11 October 2023 and at LR's request changed to a video conference.
14. In advance of the hearing the Commission read the documents referred to in paragraphs 10 and 11 above and watched all the video footage provided.
15. The Commission heard from each of The FA's witnesses in turn, before hearing from LR. Although DB's statement had originally been in the bundle, she had subsequently informed The FA that she was moving abroad and did not want to take part in the hearing. Her statement was therefore removed from the bundle and the Commission did not consider it. MSC was not called by LR. The Commission read her statement, but did not have an opportunity to question her.
16. The following paragraphs summarise the evidence and submissions provided to the Commission. They do not purport to cover all the points made. The absence of a point or submission in these reasons should not imply that the Commission did not take that point or submission into account when determining the case. For the avoidance of doubt, the Commission carefully considered all the material before it.

The FA's Evidence

AJ's Evidence

17. In her written statement AJ described the Incident in the following terms:

"The match itself was fine. The only issue was the five-minute interaction between me and LR towards the end of the first half. It started because LR elbowed me. She elbowed

me while we were on the attack. I was running and she elbowed me in the jaw. I told the referee, and they referee didn't say anything. The elbow happened just after the halfway line in our attacking half on the right side of the pitch.

After that, I did give it back to LR. When they started to attack, I pushed her and I did trip her. She complained to the referee and asked the referee if she had seen it. I can't remember if the referee said anything, I think there might have been a bit of a discussion but I can't remember what.

The game continued and I was following the ball and LR was behind me and then I heard her say to me "you little Down's Syndrome". I think she said something else before, but I am not sure what, the words I remember are "little" and "Down's Syndrome". I was shocked by what she said, so I turned to her and said "eh?", and then she said to me "it's not my fault you look like a Down's Syndrome". She was looking right at me when she said this and was right next to me.

The fact that LR had said 'Down's syndrome' twice to me by this point and was looking directly at me on the second occasion means I am certain of what I heard. She was really close to me when she said it. I don't think anybody else was nearby and don't think anybody else heard it.

I didn't report it to the referee straight away, as I was still shocked by what she had said to me. I hadn't quite processed it yet and it was like she didn't even realise what she was saying was offensive. About 30 seconds later when the ball went out of play for a goal kick, I turned back to LR and said, "that is disgusting" in reference to her calling me 'Down's Syndrome'. She was smirking as I said it and laughing and then replied, "what?... Down's Syndrome". She didn't seem bothered by it. That is when I told the others what she had called me. I told EK and DR and I think it was EK who then told the referee straight away. I think DB might have called LR a "dirty twat" for what she had said to me.

I confirmed to the referee that LR had called me "Down's Syndrome" and LR was by the referee at this point, the referee asked her if she had said it, and LR just denied saying it and called me a bare face liar. When LR denied it, she told the referee that what she had said was, "I'm gonna put her down" or something like that. The referee made some notes in her notebook, as I remember thinking she was going to book me or something. The referee didn't really say much else from what I can remember."

18. In response to questions from Mr Phillips, AJ said that she had had her back to LR when LR had used the words "Down's Syndrome" for the first time. There had been nobody else near them, so she had known that it was LR making the comment. However, at first she had been unsure whether she had heard right, so she had turned round and said "eh?". LR had looked straight at her and had said "it's not my fault you look like a Down's Syndrome". AJ had had absolutely no doubt about the words used on this occasion. Asked why she did not report the comment to the Referee, she said that the game had been continuing. When the ball had subsequently gone out of play, she had confronted LJ again, asking her whether she realised that what

she had said was disgusting. LJ's response had been "*what, Down's Syndrome?*", as though that was a normal insult. AJ said her jaw had dropped and it was at that point that she told DB and EK what LR had said. She recalled that the Referee had asked her what LR had said and she had told her that LJ had called her a "*Down's Syndrome*" three times. She could not remember the Referee's response, but recalled her writing something in her notebook. After the match she told the Referee exactly what had been said during the Incident.

19. In cross-examination Mr Harris took AJ through the footage, asking her to identify when each of the comments was alleged to have been made. She confirmed that the second comment had followed very closely on from the first. AJ accepted that she had not reported the Incident to the Referee, saying that she did not realise the consequences of what had been said. She denied having made up the allegation or turning what LR did say into something worse, stating "*She said Down's Syndrome, I cannot get that mixed up with anything else*". She also denied that she had misheard the comment, saying that she had passed a hearing test four months' earlier. She reiterated that she had heard the comment the first time, but had just wanted to make sure, hence she had turned to LR and said "*eh?*". She said that she had explained everything to the Referee, as she had explained it to the Commission, but the Referee did not appear to write everything down. AJ said that she had not wanted to be before the Commission, but she was not prepared to be classed as a liar. She had clearly heard LR call her a "*Down's Syndrome*". The final time had been the worst; LR had smirked "*as though she did not give a crap*".

20. When re-examined by Mr Phillips, AJ confirmed that the words "*Down's Syndrome*" had only been used by LR, not by her. She was 100% certain of what she had heard.

21. In response to questions from the Commission, AJ said that the comments had been spoken at a normal volume, neither shouted nor whispered. She confirmed that the term "*Down's Syndrome*" had been used by LR on three occasions and that the term "*Downie*" had not been used by LR or by her at any time. She said that she had known at the end of the Match that the footage had not picked up the comments, but she had suggested to LR out of spite that it had, because LR had been making

her out to be a liar. She confirmed that there had been “needle” between her and LR in the lead-up to the Incident, but it had been physical, not verbal, at that point.

22. EK’s Evidence

23. In her written statement EK confirmed that she did not witness the Incident, but that AJ had spoken to her immediately afterwards and said “*she has just called me a Down’s Syndrome*”, gesturing towards LR. EK said that she had told DB and that both of them had reported the comment to the Referee. She recalled that LR had told the Referee that she had actually said “*I will put you on your knees*”. EK felt that she had been trying to twist her words to make them sound more like “*Down’s Syndrome*”. She reported that she had spoken to AJ at half time and asked whether the term used was “*Down’s Syndrome*” or “*Downy*”. AJ had confirmed that it was “*Down’s Syndrome*”.

24. In response to questions from Mr Phillips and Mr Harris, EK said that she had not personally heard any comments, but that in her role as captain she had felt an obligation to make the Referee aware when AJ had reported what had been said to her. She had gone over to the Referee immediately and told her that AJ had been called a “*Down’s Syndrome*”. Before doing so she had asked AJ to confirm who had made the comment and AJ had gestured towards LR. The Referee had said that she would sort it out. EK had spoken briefly to the bench about what had been said. She had checked the comment later with AJ for her own clarity and AJ had confirmed it was “*Down’s Syndrome*”, not “*Downie*”. AJ had been steadfast in this.

The Fourth Official’s Evidence

25. In her witness statement the Fourth Official confirmed that she did not witness the Incident and was only alerted to the alleged discriminatory words by the Referee. She expanded on her Extraordinary Incident Report Form, particularly with regard to the action that the Referee took following the Incident.

26. The Fourth Official also provided a copy of the handwritten notes she had made when both players were spoken to at the end of the Match. They recorded AJ as stating that LR had said *“it’s not my fault you look like a little Down’s Syndrome”* and that AJ had responded with *“that’s disgusting”*. They also recorded that LJ had stated that she had said *“stand up you’re on your knees”* and that AJ’s response had been *“you’ve called me a downie, that’s disgusting”*.
27. In her oral evidence the Fourth Official confirmed that she could not assist the Commission regarding what had been said, she could only report on what the Referee had told her. She confirmed that she and the Referee had held the post-match meetings and that she had taken the notes that were in the bundle. She thought that other things would have been said that she had not recorded; her note had been intended to record the key details of the Incident so that they could be certain about what they had been told and feed it back. She confirmed that the notes were read back to AJ and LR at the end of their respective meetings and that both had confirmed they were accurate. She stated that the Referee had forwarded her Extraordinary Incident Report Form to her and that she had used this as the basis for her own Form. Asked if MSC had said anything in the meeting she attended with LR, the Fourth Official said that MSC’s only comment had been that if Southampton believed that the comments had been made, the club would find it unacceptable.

The Referee’s Evidence

28. In her witness statement the Referee confirmed that she did not witness the Incident and was informed of the alleged comments by the Sunderland players. She expanded on her Extraordinary Incident Report Form, particularly with regard to her actions following the Incident.
29. In her oral evidence the Referee confirmed that she had spoken to LR and AJ after she had been told about the alleged comments. AJ had presumed that she was getting booked, but she had explained that she was just making a note. Her recollection was that LR had not said anything at that point, but had shaken her

head. She stated that she was 100% certain that her recording of what was said in the meetings was accurate. She and the Fourth Official had compared their notes and they were the same. She confirmed that the notes had been read back to both players. She had transferred everything from her handwritten notes to the Extraordinary Incident Report Form and must then have thrown away the notes. She confirmed that LR had seemed quite calm in the post-match meeting.

LR's Evidence

30. In her extensive interview with AB, LR denied using the term “*Down's Syndrome*”.

She reported that she had told AJ that she needed to calm down, whereupon AJ had responded with “*Fuck yourself ugly and fuck your team*”. She had then said “*You look like your down on your knees*”, stating that this was a reference to AJ's height and that she had made the comment because AJ had thrown abuse at her, elbowed her and lashed out at her. Questioned as to whether she could in fact have said “*Stand up, you're on your knees*”, as recorded by the Referee, she said that she could not remember, adding that she was in a lot of pain when she spoke to the Referee after the Match as a result of a tackle from a Sunderland player in the second half.

31. In her witness statement dated 28 June 2023, LR gave a detailed explanation of the Incident, stating as follows:

“Just before this incident I felt that AJ was provoking me with a series of ongoing unnecessary physical actions. At this time, I approached the referee to make her aware of how AJ was behaving towards me and asked her for protection by saying to the referee “you need to get a grip of her”. After I initially told the referee of my concern, they acknowledged my comment. At this point I feel that the referee could have spoken to AJ, which might have helped to prevent any further incidents, these allegations from being made and this whole time-consuming and distressing process. At the time, I just felt unprotected by the referee.

In approximately the 42nd minute of the first half, it was our goal kick as the ball was played long over my head I turned to run and support in attacking play. AJ ran and just stopped in front of me intentionally. I said to AJ “you need to calm yourself down” she turned to me and said to me “Fuck yourself ugly and fuck your team”. I responded as AJ ran away saying “coming from you, you look like your down on your knees”. This was a reference to her height and nothing else. While this is

something that I should not have been provoked into, I categorically deny any accusation that I made any reference to down syndrome, any other form of disability or any other protected characteristic. I simply did not say the words that AJ has accused me of saying.

At the time that I spoke to her, I would suggest that she was approximately 3 metres away and that she was moving away from me towards her goal. I did not think anything would come from this comment, and we carried on with our game. I would like to point out that AJ did not approach the referee immediately.

Approximately 2-3 minutes later, play was stopped, and I was beckoned over by the referee, in which the referee stated to me that I had made inappropriate comments to another player. I was shocked to hear this after my initial complaint to get the game and players, and AJ particularly, under control. My response I did not rise to this accusation at the time, and I shook my head and said, “no way”, that was my only response at that time. As I felt that I was getting the better of AJ in the game, this was a deliberate tactic to get into my head or to throw me off of my game.

At half time as we were walking across the pitch, I was spoken to by my manager Marieanne Spacey-Cale to ask what had been said. I told her what I had said to AJ about her height.”

32. In her oral evidence before the Commission, LR described the Match as a normal competitive game, saying that it had been calm at first but that just before the Incident there had been a few niggles, trips and pushes from AJ. She had been a little annoyed but not been particularly upset, she had just wanted a bit of protection from the Referee. The Referee did nothing, despite her asking twice. AJ had called her a fucking ugly bitch and said “*fuck your team*” and her response had been to carry on with her game. All she had said to AJ was “*calm down*” and as she was running away she had said “*shut up and that’s coming from you, stand up you look like you’re on your knees*”. She had then asked AJ what her problem was and AJ had replied “*you called me Downie or Down’s Syndrome*”. The first reference to a discriminatory comment came from AJ and EK was the first one to use the word “*Downie*”. LR denied ever having used the words “*Down’s Syndrome*”. The most accurate version of her comment was the one said to MSC at half time.
33. LR acknowledged that the phrase recorded by the Match Officials did not include the word “*down*”, but said that she had told MSC at half time exactly what was said, including the words “*down on your knees*”. That was the most accurate version of her comment. Asked by Mr Phillips how certain she was as to what she had said, she said she could only go by her statement. She agreed that the Fourth Official’s

notes had been read back to her and that she had confirmed them, but said that she had not been calm at the time because of her injury. She did not think that she had been asked about the exchange of words that led up to the comment being made.

Submissions on behalf of the FA

34. Mr Phillips invited the Commission to find the aggravated charge proven. He submitted that AJ was a credible witness. She had given her account of events on various occasions and it had been consistent. She had stood up well in questioning. There was no dispute that words had been said, the dispute was only about the words used. AJ had consistently maintained that the words “*Down’s Syndrome*” were used. While AJ had not reported the Incident to the Referee, she had explained that this was because she would not go out of her way to get someone into trouble. However, when asked by the Referee for her account, she had been clear and consistent. The Fourth Official’s notes were entirely consistent with AJ’s evidence, which bolstered her reliability and credibility.

35. Mr Phillips asked the Commission to note the differing accounts given by LR, in particular regarding the inclusion of the word “*down*”. The wording on which LR now sought to rely was at odds with what the Referee had recorded her as saying. Furthermore, AJ alleged comment “*fuck yourself ugly and fuck your team*”, which on LR’s account had provoked her response, had been mentioned for the first time in her interview with AB. LR did not tell either MSC or the Referee about this at the time. This was a further inconsistency in LR’s account, which should lead the Commission to prefer AJ’s version.

Submissions on behalf of LR

36. Mr Harris asked the Commission to consider that a compelling witness can nonetheless be a mistaken one. The Commission had to start from the point that The FA must prove its case and should consider whether a mistake was possible. He acknowledged that in the case papers and in her evidence before the Commission LR had put forward different versions of the words she had used, but submitted that she was simply trying to give her best recollection. He said that the passage of time

made it difficult to recall the exact sequence of events. If LR were lying, the word “down” would appear front and centre of everything she said.

37. Mr Harris submitted that AJ could be mistaken as to what she had heard. She had been candid enough to admit that she had not been sure of the exact words used on the first occasion, and this could be a case of the mind filling gaps and adding words. AJ clearly knew that she could and should have reported the Incident to the Referee. He invited the Commission to conclude that the reason that she did not do so was because she was not totally certain about what had been said. He highlighted the lack of detail in the Match Officials’ records, saying that the best account must be the handwritten notes, which recorded only one comment being made, not three. He questioned why EK would have made reference to “Downie” when, on The FA’s case, that term had not be used at all. He pointed to the lack of corroborating evidence for AJ’s version of events.

38. Mr Harris emphasised LR’s length of time in football and her good character and record.

Relevant Rules

39. FA Rule E3.1 states:

“A Participant shall at all times act in the best interests of the game and shall not act in any manner which is improper or brings the game into disrepute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.”

40. FA Rule E3.2 states:

“A breach of Rule E3.1 is an “Aggravated Breach” where it includes a reference, whether express or implied, to any one or more of the following:- ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.”

The Commission's Decision

41. The Commission reminded itself that the burden was on the FA to prove the case and that the applicable standard of proof was the balance of probabilities.
42. This case effectively turned on a single term. LR did not dispute that she made a comment to AJ. The issue for the Commission to decide was whether LR used the words "*Down's Syndrome*", as The FA alleged, or used a phrase containing the words "*on your knees*" or "*down on your knees*" and had simply been referring to AJ's height, as she maintained.
43. The Referee and the Fourth Official did not witness or hear the interaction between AJ and LR. Their evidence was therefore of limited value beyond the reporting of the Incident and their subsequent discussions with AJ and LR. Similarly EK's evidence was limited to what AJ told her at the time and what she then did. The Commission was mindful that the video footage could not assist with what was actually said, meaning that it essentially came down to whose version of the words used was the more likely. The Commission therefore focussed on the evidence of AJ and LR, while also carefully assessing all the other evidence before it, including the statements regarding the reporting of the Incident to the Referee and the post-match discussions.
44. The Commission found AJ to be a natural and consistent witness. She answered the questions put to her instinctively and immediately. The Commission preferred her account of the events leading up to the Incident as it was corroborated by the video footage. It found that AJ's description of how the Incident unfolded, including the fact that there were three stages to it, was borne out by the footage. It took the view that any uncertainty in AJ's mind regarding the words that immediately preceded the discriminatory words on the first occasion was negated by LR's repetition of it. It also noted that AJ's evidence on timings was borne out by the footage, whereas LR's evidence that the third interaction took place two or three minutes after the first and second interaction was clearly wrong.

45. The Commission did not find LR to be a good witness. It was concerned that her accounts of what had happened and the words used differed on each occasion she was asked about the Incident. While the Commission was mindful that these events occurred eight months ago, meaning that it was unreasonable to expect every detail to be clearly recalled, it was troubled by the inconsistencies in LR's evidence. It was particularly concerned that the contemporaneous account given to the Match Officials after the game had not included the word "*down*". It noted LR's explanation that this was because she had been in quite a lot of pain and discomfort and had been emotional and upset, but also took account of the fact that when questioned during the hearing about LR's demeanour, the Referee had replied that she had been calm.
46. The Commission considered MSC's account of what LR had said to her at half time, both in her statement and during LR's interview with AB. It approached the account with caution, firstly because MSC had not herself heard what was said and secondly because it had not had the opportunity to question MSC. It noted that MSC's account differed from LR's own account to the Match Officials. Furthermore, MSC had accompanied LR in the post-match interview, yet had not made any mention of what she herself had been told by LR, even when the Fourth Official noted down a different version. The Commission did not accept Mr Harris's submission that MSC's account must be taken as the correct one.
47. The Commission concluded that the words "*Down's Syndrome*" were used on three occasions, as described by AJ, and that the word "*Downie*" was not used by either LR or AJ. In preferring the evidence of AJ to that of LR on the words used, the Commission also took account of the fact that this was a closely-fought game in which, by her own admission, LR had been annoyed at what she considered to be AJ's niggly tactics and the lack of protection from the Referee. The Commission felt that LR's emotions had got the better of her in the heat of the moment.
48. Having decided on the balance of probabilities that LR did use the word "*Down's Syndrome*", the Commission was satisfied that this constituted an aggravated breach of FA Rule E3.2.

Submissions on Sanction

49. The parties were invited to address the Commission on sanction and aggravation/mitigation.
50. The Secretary confirmed that LR had no previous misconduct charges on her record.
51. Mr Phillips referred to the standard minimum sanction of six matches. As far as The FA was concerned, there were no particular aggravating circumstances, other than the fact that the comment had been made more than once. While LR had cooperated in the investigation, she had contested the charge and had not shown any remorse. She could not therefore be given any credit. He submitted that the suspension should be more than the standard minimum and invited the Commission to exercise its discretion in terms of both the suspension and any financial penalty.
52. Mr Harris invited the Commission to reject the suggestion that the sanction should be increased due to the offence being repeated. The first and second comments were made within moments of one another and the third occasion was not a newly instigated comment. The offence was not public in nature and a denial should not be equated with an attempt to conceal. LR's previous disciplinary record was positive. None of the other aggravating or mitigating factors were relevant.
53. Mr Harris pointed to LR's long service in football at a high level. He said that LR respected the outcome and the decision would have a salutary effect on her. This was one lapse at the lowest end of the scale and LR's first offence in 25 years. Mr Harris invited the Commission to limit the sanction to the six-match minimum.
54. Mr Harris confirmed that LR had a net income from football of around [REDACTED]
[REDACTED] He submitted that in all the circumstances no financial penalty should be imposed and no award for costs should be made.

Sanction Guidelines

55. Appendix 1 of the Disciplinary Regulations, Standard Sanctions and Guidelines for Aggravated Breaches, states:

A finding of an Aggravated Breach against a Player, Manager or Technical Area Occupant will attract an immediate suspension of between 6 Matches and 12 Matches (“Sanction Range”).

A Commission shall take all aggravating and mitigating factors into account, including but not limited to those listed in these guidelines when determining the level of sanction within the Sanction Range.

The lowest end of the Sanction Range (i.e. 6 Matches) shall operate as a standard minimum punishment (the “Standard Minimum”).

Decision on Sanction

56. The Commission noted that it was required to have due regard to the circumstances and seriousness of the incident when determining the appropriate sanction, and that in so doing it must give consideration to any aggravating and mitigating factors.

57. The Commission was mindful of the fact that this was a case of a single discriminatory comment, albeit one that had been repeated on three occasions in relatively quick succession. While it accepted that LR had a clean disciplinary record and there was no suggestion that the behaviour would be repeated, it nonetheless felt this to be a serious matter. The discriminatory term was clearly used in an offensive way. The Commission noted the impact that it had had on AJ, as reported by EK in her statement. LR’s long and unblemished career in football was a positive, but equally it could be said that her experience made it all the more important that she acted as a role model. The Commission noted that people in the crowd had been aware of what had happened, which was not good for the game.

58. In all the circumstances the Commission decided that the mandatory minimum sanction was not appropriate and after balancing all of the factors, decided to impose an eight-match ban. It also felt that there should be a financial penalty, but

noted LR's relatively modest income from football. It therefore decided to fine her the equivalent of [REDACTED] It concluded that there should be no order for costs.

59. The Commission made the following order:

- LR is suspended from all domestic club football with immediate effect until Portsmouth have completed eight first team competitive matches in approved competitions.
- LR must pay a fine of £130.
- LR must attend a mandatory education programme, the details of which will be provided to her by The FA.

60. The decision of the Commission may be appealed in accordance with the Appeals – Non-Fast Track Regulations.

Sally Davenport
Simon Hollyhead
Alison Royston
17 October 2023